



EC 2002-030
II-A-134

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

CERTIFIED MAIL #
RETURN RECEIPT REQUESTED

Mr. Gregory M. Scott
Attorney for QuikTrip Corporation
Collier Shannon Scott, PLLC
Washington Harbour, Suite 400
3050 K Street, NW
Washington, DC 20007-5108

Re: Notice of Violations AED/MSEB # 6054

Dear Mr. Scott:

On February 5, 2001, your client, QuikTrip Corporation ("QuikTrip") notified the U.S. Environmental Protection Agency (EPA) of the existence of violations of the reformulated gasoline regulations, 40 C.F.R. Part 80, subpart D (the "RFG regulations"). QuikTrip advised EPA that a new driver for Groendyke Transport, a carrier under contract with QuikTrip, made two misdeliveries of conventional gasoline (CG) to QuikTrip retail outlets located within the St Louis Opt-in area which requires the use of RFG. (See enclosure.)

Where inappropriate fuels are used in internal combustion engines, the emission of harmful gases can increase significantly. Notwithstanding improvements in vehicle emission control, emissions from motor vehicles continue to make up a very large portion of all air pollution. Congress has established a program of improvements and regulation of fuels to protect our air quality from unnecessary pollution associated with the misfueling of vehicles.

Section 80.78(a)(1) of the RFG regulations prohibits any person from transferring gasoline as reformulated gasoline into a

covered area requiring RFG, unless the gasoline and its transfer document complies with the RFG gasoline standards and record requirements under that section. The Clean Air Act at 42 U.S.C. § 7524 and the RFG regulations at 40 C.F.R. § 80.80(a) subject violators of the RFG regulations to a maximum civil penalty of up to \$27,500 per continuing day for each violation occurring after January 30, 1997, plus the amount of any economic benefit or savings resulting from each violation.

As a result of the February 5, 2001 disclosures by QuikTrip, EPA has determined that misdeliveries of CG were made to QuikTrip retail outlets within the St Louis, MO RFG Opt-in area on two occasions on January 7, 2001. (See enclosure.) This constitutes at least two (2) violations of 40 C.F.R. § 80.78(a). As the retailer who owned, leased, operated, controlled or supervised the facilities where these violations were found, and as the distributor who dispensed, supplied, stored, or transported the CG gasoline found to be in violation, QuikTrip is liable for these violations pursuant to 40 C.F.R. §§ 80.79(a)(1)&(4), respectively.

Sections 211 and 205 of the Clean Air Act, 42 U.S.C. §§ 7545 and 7524, authorize the Administrator of the EPA to assess a civil penalty of up to \$27,500 for every day of such violation occurring after January 30, 1997, plus the economic benefit or savings resulting from the violations. Rather than initiating litigation, we are presently proposing a civil penalty for the violations alleged in this Notice of Violations of nine thousand four hundred and four dollars (\$9,404).

EPA encourages settlement of such matters rather than initiating litigation. The settlement process provides substantial flexibility for reducing the statutory penalty, particularly in light of the fact that QuikTrip self-disclosed these violations pursuant to EPA's final policy statement on "Incentives for Self-Policing: Discovery, Disclosure, Correction, and Prevention of Violations" (65 F.R. 19618, April 11, 2000) ("Audit Policy"). Pursuant to the Audit Policy, a substantial penalty reduction may be granted, dependent upon a party's ability to establish compliance with Audit Policy conditions. We expect QuikTrip's Audit Policy compliance to be determined more fully through the course of settlement discussions on this case. If, after participation in settlement discussions, we cannot

settle this matter promptly with QuikTrip, we reserve the right to file an administrative complaint or refer this matter to the U.S. Department of Justice with a recommendation to file a civil complaint in federal district court.

The EPA attorney designated below has been assigned to this case. Please contact him regarding this Notice of Violations.

Jeffrey A. Kodish, Attorney/Advisor
U.S. Environmental Protection Agency
Western Field Office
12345 West Alameda Parkway, Suite 214
Denver, CO 80228
(303) 236-9511

Please let me emphasize that while we take our obligation to enforce these requirements seriously, we will make every effort to reach an equitable settlement in this matter.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Richard B. Buckheit".

Bruce C. Buckheit, Director
Air Enforcement Division

Enclosure

Attachment

**Misdeliveries of CG gasoline to QuikTrip Retail Outlets in the
St Louis, MO RFG Opt-in Area**

Facility at which Misdelivery Occurred	Date of Misdelivery	Gallons of CG Misdelivered
QuikTrip Store #628 Dunn Road St Louis, MO	January 7, 2001	9401
QuikTrip Store #612 North Hanley Road Berkeley, MO	January 7, 2001	7097